Supreme Court, U.S.
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No. 01-1235

In The

Supreme Court of the United States

STATE OF OHIO,

Petitioner,

v.

GEORGE BURNETT,

Respondent.

On Petition For A Writ Of Certiorari To The Supreme Court Of The State Of Ohio

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

I. THERE IS NO ADEQUATE AND INDEPENDENT STATE LAW GROUND FOR THE DECISION OF THE SUPREME COURT OF OHIO

The respondent suggested in his Brief in Opposition that there was an independent state law ground for the decision of the Supreme Court of Ohio. As explained in the Petition for a Writ of Certiorari (pp. 12-16), the purported state law ground is interwoven with federal law and the adequacy and independence of the state law ground is not clear. In fact, the purported state law ground is a federal double jeopardy analysis, in disguise. This Court, therefore, has jurisdiction.

II. THIS CASE IS NOT MOOT BECAUSE THE TRIAL COURT WAS WITHOUT JURISDICTION TO DISMISS THE CRIMINAL PROSECUTION WHILE THE CASE WAS ON APPEAL

The respondent claims that the trial court dismissed the underlying criminal charge on October 18, 2001, just one day after the October 17, 2001, decision of the Supreme Court of Ohio, and while the City's time to appeal had just started to run. This is the first notice the City has received of the trial court's action. Obviously, the trial court was without jurisdiction to *sua sponte*, and without notice to the City, dismiss the underlying criminal charge while the City was seeking reconsideration before the Supreme Court of Ohio and then review by

this Court. The October 18, 2001, trial court entry is void and should be ignored.

Respectfully submitted,

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